

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WEST VIRGINIA
(BLUEFIELD DIVISION)**



DHARMESH PATEL,
Petitioner,

v.

Civil Action No. 1:25-cv-00283

WARDEN, FCI MCDOWELL,
Respondent.

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241
(REQUESTING IMMEDIATE TRANSFER TO RRC/HOME CONFINEMENT
BASED ON FSA AND SCA)**

COMES NOW, Petitioner Dharmesh Patel, appearing pro se, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the Bureau of Prisons' (BOP) failure to timely transfer him to prerelease custody (either Residential Reentry Center (RRC) or home confinement), despite his statutory eligibility under the First Step Act (FSA), 18 U.S.C. § 3632(d), and the Second Chance Act (SCA), 18 U.S.C. § 3624(c), and in support thereof states:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241, as Petitioner is currently in the custody of the Federal Bureau of Prisons (BOP) at FCI McDowell located within the District of West Virginia.
2. Venue is proper because Petitioner is confined in this judicial district. *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004).

II. PARTIES

- Petitioner: Dharmesh Patel, Reg. No. 11772-090, currently incarcerated at FCI

McDowell.

- Respondent: Warden, FCI McDowell, in official capacity as custodian of the Petitioner.

III. STATEMENT OF FACTS

3. Petitioner was sentenced on June 18, 2020, in the Western District of Wisconsin (Case No. 3:20-cr-00007-001) to a term of 87 months for wire fraud and aggravated identity theft.
4. He has been in continuous federal custody since August 17, 2020, with projected statutory release date of December 12, 2026.
5. Petitioner is FSA eligible and has accrued 365 FSA Time Credits toward early release, in addition to 210 FSA Time Credits toward RRC/Home Confinement.
6. Petitioner has demonstrated low recidivism and maintained a low-risk PATTERN score and completed multiple programming courses as defined by BOP policy and 18 U.S.C. § 3632(d)(4)(A).
7. Petitioner's FSA Conditional Release Date is December 12, 2025, and his Home Detention Eligibility Date is June 12, 2025, but no transfer or placement preparation has occurred as required.

IV. CLAIM FOR RELIEF

Violation of the First Step Act and the Second Chance Act

9. The BOP is required to apply earned time credits "towards time in prerelease custody or supervised release" under 18 U.S.C. § 3632(d)(4)(C).
10. Under the SCA (18 U.S.C. § 3624(c)), the BOP shall "ensure, to the extent practicable," that a prisoner spends a portion of the final months of the term of imprisonment under pre-release conditions.
11. Petitioner has completed all prerequisites and has over 205 FSA days available to be applied toward pre-release custody, which has not been acted upon.
12. Denial or delay in transferring the Petitioner violates statutory directives and constitutes arbitrary and capricious action under the Administrative Procedure Act.
13. Further delay will moot the purpose of time credit incentives and the intended transitional benefit of pre-release programming.

V. EXHAUSTION OF REMEDIES

14. Petitioners have attempted to exhaust administrative remedies, but such efforts are futile due to timing constraints and imminent eligibility date (May 16, 2025).
15. Courts have recognized futility as a valid exception to exhaustion when delay defeats the purpose of the relief sought. *Woodley v. Warden, USP Leavenworth*, No. 23-3085-

JWL, 2024 WL 260904 (D. Kan. May 15, 2024).

VI. PRAYER FOR RELIEF

WHEREFORE, the Petitioner respectfully prays that this Court:

1. Issue a Writ of Habeas Corpus ordering the BOP to immediately apply FSA earned time credits toward pre-release custody.
2. Direct the BOP to transfer Petitioner to either RRC or home confinement in accordance with 18 U.S.C. §§ 3621(b), 3624(c), and 3632(d).
3. Grant such other and further relief as the Court deems just and proper.

Dated this 22 day of April 2025.

Respectfully submitted,



Dharmesh Patel
Reg. No. 11772-090
Federal Correctional Institution – McDowell
P.O. Box 1009
Welch, WV 24801

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was mailed via First Class U.S. Mail, postage prepaid, to the Clerk of Court at:

Clerk of Court
United States District Court
Southern District of West Virginia
Bluefield Division
601 Federal Street, Room 2300
Bluefield, WV 24701

Dated this 22 day of April 2025.



Dharmesh Patel
Reg. No. 11772-090
Federal Correctional Institution – McDowell
P.O. Box 1009
Welch, WV 24801